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## **Chapter 19.76 SUPPLEMENTARY AND QUALIFYING RULES AND REGULATIONS**

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## **19.76.010 Effect of chapter provisions.**

The rules and regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this title.

## **19.76.020 Lots and lot area.**

### **A. Lots in separate ownership.**

The requirements of this title as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land, provided that such lot or parcel of land is located in a zone which permits single-family dwellings, and is a legally divided lot held in separate ownership at the time such requirements became effective for such lot or parcel of land.

### **B. Separately owned lots—Reduced yards.**

On any lot under a separate ownership from adjacent lots and of record at the time of passage of the ordinance codified herein, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width; provided that, on interior lots, the smaller of the two yards shall be in no case less than five feet, or the larger less than eight feet; and for corner lots, the wide yard on the side street shall be in no case less than 15 feet or the other side yard be less than five feet.

### **C. Division of a two-family dwelling.**

Upon certification by the director, a legal, or legal non-conforming, -existing or proposed two-family dwelling may be divided into attached single-family dwellings by dividing the lot. Each dwelling shall have a minimum lot area equal to one-half of the minimum lot area required in the zone for a two-family dwelling, which in no case shall be less than 4,000 square feet, and must meet all building, fire, health, parking and other requirements for a single-family dwelling. An application for lot division certification must be accompanied by a site plan showing buildings, landscaping, parking, and any other information deemed necessary by the director. The director may attach conditions to certification consistent with the purpose of the zoning ordinance. Any sale (prior to certification herein) dividing a lot occupied by a two-family dwelling shall be a misdemeanor.

### **D. Sale of lots below minimum width and area.**

No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a large parcel of land for the purpose, whether immediate or future, of building or development as a lot, except by permit of the board of adjustment.

### **E. Sale of space needed to meet requirements.**

No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold or leased away from such lot or building.

### **F. Yard space for one building only.**

No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot

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whereon a building is to be erected or established. This section shall be so construed to mean only one main building may be permitted on one lot, unless otherwise provided in this title.

### **G. Front yard measurement from map.**

Wherever a front yard is required for a lot facing on a street for which an official map has been recorded in the office of the city recorder, the depth of such front yard shall be measured from the mapped street line provided by the official map.

### **19.76.030 Structures, bulk and massing requirements.**

#### **A. Dwellings, including guest homes, to be on lots.**

1. -Every dwelling shall be located and maintained on a lot, as defined in this title. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy one a lot.

2. Guest houses shall be a permitted use in the following zones:

- a. R-1-8; -10; and, -15
- b. RR-1-21; -29; and, -43
- c. F-1-21; and -43
- d. F-20

3. The guest house shall be a detached accessory use to a principal residence and shall be located in the rear yard of the principal lot.

4. The maximum allowed area of the guest house shall 25 percent of the area of the principal residence (exclusive of garages).

5. The floor area of the guest house and principal residence combined shall not exceed the maximum impervious surface coverage for the site.

6. The rental or lease of a guest house, or the use of a guest house as a permanent residence for a second family on the premises shall be prohibited.

7. Installation of separate utility meters for the guest house is prohibited.

8. All bulk and massing requirements for accessory buildings, as per the applicable zone, shall be applicable to the guest house.

#### **B. Accessory buildings—Area of coverage.**

No accessory building or group of accessory buildings in any residential zone shall cover more than 25% of the rear yard.

#### **~~C. Single family or two family dwelling—Standards.~~**

~~—Any detached single family or two family dwelling located on an individual lot outside of a mobile home park or mobile home subdivision must meet the off street parking requirements in chapter 19.80, “Off Street Parking Requirements,” and the following standards in addition to any others required by law except as provided in subsection I of this section:~~

~~—A. The dwelling unit must meet the city’s building code or, if it is a manufactured home, it must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, and must have been issued an insignia and approved by the U.S. Department of Housing and Urban Development, and must not have been altered in violation of codes. A used manufactured home must be inspected by the city’s building official or his designated representative prior to placement on a lot to insure it has not been altered in violation of such codes.~~

~~—B. The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the Utah State Tax Commission pursuant to Utah Code Ann. § 59-2-602, as amended.~~

~~—C. The dwelling must be permanently connected to and approved for all required utilities.~~

~~D. The dwelling must provide a minimum of 72 square feet (per dwelling unit) of enclosed~~

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~~storage, with a minimum height of six feet, located in the basement or garage area or in an accessory storage structure. Such structure shall conform to all applicable building codes.~~

~~—E. The dwelling must be attached to a site-built permanent foundation which meets the city's building code or, if the dwelling is a manufactured home, the installation must meet the ICBO Guidelines for Manufactured Housing Installations, including any successors to these standards, and the space beneath the structure must be enclosed at the perimeter of the dwelling in accordance with such ICBO Guidelines, and constructed of materials that are weather-resistant and aesthetically consistent with concrete or masonry type foundation materials. At each exit door there must be a landing that is a minimum of 36 inches by 36 inches and that is constructed to meet the requirements of the city's building code. All manufactured home running gear, tongues, axles and wheels must be removed at the time of installation.~~

~~—F. At least 60% of the roof of the dwelling must be pitched at a minimum of two and one-half to 12 (2.5:12) and shall have a roof surface of wood shakes, asphalt, composition, wood shingles, concrete, fiberglass or metal tiles or slate or built-up gravel materials.~~

~~—G. The dwelling shall have exterior siding material consisting of wood, masonry, concrete, stucco, masonite, or metal or vinyl lap, or any material meeting the city's building code or materials of like appearance approved by the director. The roof overhang must not be less than six inches, including rain gutters which may account for up to four inches of overhang, measured from the vertical side of the dwelling. The roof overhang requirement shall not apply to areas above porches, alcoves and other appendages which together do not exceed 25% of the length of the dwelling. The roof overhang may be reduced to two inches on the side of the dwelling facing the rear yard except on corner lots.~~

~~—H. The width of the dwelling shall be at least 20 feet at the narrowest part of its first story for a length of at least 20 feet exclusive of any garage area. The width shall be considered the lesser of the two primary dimensions. Factory built or manufactured homes shall be multiple transportable sections at least ten feet wide unless transportable in three or more sections, in which case only one section need be ten feet.~~

~~—I. The director may approve deviations from one or more of the developmental or architectural standards provided in subsections E through H of this section on the basis of a finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing structures in the vicinity. The determination of the director may be appealed to the board of adjustment.~~

~~—J. Replacement of an existing nonconforming manufactured home on a lot outside a mobile home park or mobile home subdivision shall comply with all requirements herein.~~

## **DC. Public use—reduced lot area and yards.**

The ~~requirements of this title as to~~ minimum lot area and minimum ~~yards~~ yard requirements of this title may be reduced by the planning commission for a public use. The planning commission shall not authorize a reduction in the lot area or yard requirements if rule 19.76.030(H) Additional Height is in use, or unless the evidence presented is such as to establish that the reduction will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

## **ED. Structure height — Vertical measurement.**

A. Structure height shall be measured by taking the average vertical distance measured at the four corners of the main structure. This measurement shall be taken from the original natural grade of the lot to the highest point of the roof structure. In cases where the four corners of the structure are not explicitly clear, the city's building official and the director shall designate the four corners of the structure.

B. Structures may be stepped to accommodate the slope of the terrain provided that each step

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shall be at least 12 feet in horizontal dimension. The height of each stepped segment shall be measured as required in subsection (A).

C. Original ground surface shall be the elevation of the ground surface in its natural state before any manmade alterations such as, without limitation, grading, excavation or filling, excluding improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous manmade alterations, the elevation of the original grade shall be determined by the director using the best information available.

### **E. Lot grade – measurement.**

The percent grade of a lot shall be derived by determining the percent increase or decrease in elevation using the area of the proposed structure footprint and the front yard.

### **F. Height limitations—Buildings less than one story.**

No building shall be erected to a height less than one story above grade.

### **G. Height limitations—Accessory buildings.**

~~No building which is accessory to a one-family, two-family, three-family or four-family dwelling shall contain more than one story or exceed 20 feet in height, subject to more restrictive regulations in this title.~~

### **HG. Height limitations—Exceptions.**

In the ORD, CR, MU, NC, RO and PF zones, Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building may be erected above the height limits prescribed in this title when approved by the planning commission, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

### **I. Additional height allowed when.**

Public or semipublic utility buildings, when authorized in a zone, may be erected to a height not exceeding 40 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

### **I. Story, first**

The lowest story in a building that qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade for more than 50 percent of the total perimeter, or not more than eight feet below grade at any point.

### **J. Yard requirements**

“Yard” means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

A. Fences;

B. Canopies ~~allowed under subsection 19.80.120(B);~~ not to include temporary or permanent carports.

C. Accessory buildings in a rear yard including temporary or permanent carports;

D. The ordinary projections of windows where the projection is at least 18 inches above floor level, roofs, cornices, chimneys, flues, and other ornamental features which project into a yard not more than three (3) feet;

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E. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet; and

F. Structures less than 18 inches in height from the finished ground surface.

### **JK. Demolition permits.**

A. An approved site plan is required before a commercial building can be approved for demolition.

B. The following items must be submitted to obtain a demolition permit:

a.1. An asbestos inspection from an approved asbestos inspector.

b.2. A completed and approved "Pre-demolition Building Inspection Form" from Salt Lake Valley Health Department.

c.3. Approval for demolition from the Utah Division of Air Quality.

4. A letter or email, from all service providers to the property or structure, indicating that all utilities have been terminated.

5. A completed cottonwood heights city building permit application.

### **KL. Portable storage containers.**

—A. In all municipal, residential, commercial, office or mixed-use zone, portable storage containers are permitted only in accordance with the following:

—1. As a temporary use, not to exceed 180 days, during the construction, remodeling or redevelopment of a permanent on site structure with a valid building permit.

—2. In no case shall a lot contain more than one of such portable storage containers, nor shall any portable storage container be located in required landscape areas, front yard area, required open space, detention basins, drive aisles, fire lanes, required parking spaces, loading zones or any other location that may cause a threat to public safety, or create a condition detrimental to surrounding land uses and property owners.

—3. For commercial, office and mixed-use zones a temporary site plan must be submitted for review by the department. Approval of more than one portable storage containers may be approved by staff if the DRC finds that the addition will not jeopardize the public health, safety or welfare or create a nuisance. In addition, the temporary use of portable storage containers shall not violate a conditional use approval.

### **M. Construction Mitigation Plan.**

A. Prior to commencement of construction, a written construction mitigation plan addressing the following elements must be approved by the director or his designee. The construction mitigation plan shall address the following elements: (Please note: all elements may not apply to each individual project. There may also be additional elements, unique to the project that involve public health and safety issues.)

1. Hours of Operation. The hours of operation are 7AM to 8PM, Monday thru Saturday, and 9AM to 6PM on Sunday.

2. Parking. Construction vehicle parking shall be restricted at construction sites so as to not block reasonable public and safety vehicle access along the street and sidewalks. Within paid and permit only areas, an approved parking plan must be obtained from the Public Works Department.

3. Deliveries. Deliveries of construction all materials and supplies may be regulated as to time (hours of operation) and routing.

4. Stockpiling & Staging. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on site may be required.

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5. Construction Phasing. Due to narrow streets, topography, small lot configuration, traffic circulation, weather, construction parking and material staging problems, some projects may be required to be phased. In cases where phasing is deemed necessary, the first project to receive a building permit shall have priority, however, the Building Official shall have authority to phase projects as necessary to assure efficient, timely and safe construction.

6. Trash Management and Recycling of Materials. Construction sites shall provide adequate storage and a program for trash removal. Construction material recycling bins are encouraged on sites with adequate room for separation of materials.

7. Control of Dust & Mud. A program for the control dust or other airborne debris shall be required. Provisions must be made to prevent the tracking of mud on streets and it will be required to remove any such mud daily. Placing gravel in the egress and ingress areas to a job site is one method to control mud and dust problems.

8. Noise. Any noise above 65 decibels violates the noise ordinance, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation.

9. Grading and Excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of dirt shall be addressed. Excavation 6 feet (1.8 m) or more in depth shall be protected from falling hazards by guardrail roofs, systems, fences, or barricades.

10. Temporary Lighting. An approved temporary lighting plan must be obtained from the Planning Department if any exterior temporary lighting is necessary for construction.

11. Construction Sign. A sign shall be posted in a location where the sign is readable from the street or driveway. The sign shall not exceed 12 square feet in size and 6 feet in height. The lettering shall not exceed 4 inches in height. Information on the sign shall include:

- a. Name, address and phone number of the contractor
- b. Name, address and phone number of the person responsible for the project
- c. Name and phone number of the party to call in case of an emergency

## N. Private Swimming Pools

### A. Definition.

1. In this title "private swimming pool" means any pool, tank, depression or excavation in or above ground, or other structure which shall cause retaining of water over a depth than eighteen (18) inches and/or having a larger plane surface of water greater than one hundred fifty (150) square feet and which shall be designed or used for swimming, wading or immersion purposes by individuals, used or intended to be used solely by the owner, lessee or tenant thereof and his family and by friends invited to use it without payment of any fees.

### B. Permit.

1. It shall be unlawful for any person to construct, alter or repair a private swimming pool within the city without first having secured a permit from the building official. An application for this permit shall be made on such forms as may be furnished by the city, and shall be accompanied by complete plans and specifications for the pool, including the type and location thereof with respect to the boundary lines of the land of the applicant. The applicant shall pay the fees established for such permit.

2. The building official may revoke any permit for failure to comply with this article.

3. Before a permit is revoked, the private swimming pool owner shall have notice in writing listing and describing the instances of failure to comply with this article. The permit shall be reissued upon proper application and upon presentation that the deficiencies causing revocation have been corrected.

### C. Compliance.



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1. It is unlawful for any person to own or maintain a private swimming pool that does not comply with this article.

D. Setback requirements; location generally; drainage generally.

1. Private swimming pools for which a permit is required under this article shall not be located within three (3) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. Pools shall not be located closer than ten (10) feet to any portion of a private sewage system. Pools shall not be located within any required front yard or established easements. Private swimming pools shall be drained to the street storm sewer by permission of the Cottonwood Improvement District only. Private swimming pools shall not be drained to the city's storm drain.

E. Fences.

1. All private swimming pools, including above ground pools, shall be completely surrounded by a fence or wall not less than six (6) feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in vertical or horizontal direction, except for doors and gates. The fence shall be of a type not readily climbed by children. A dwelling or accessory building may be used as part of such enclosure.

2. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use and shall be provided with hardware for permanent locking devices, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Pool gates shall be locked when the pool is not in use.

3. When it is necessary to fill the pool prior to the installation of the required fencing, a temporary fence (such as a construction fence) may be installed in a substantial manner; with the approval of the building official. The maximum time allowed for a temporary fence shall be thirty (30) days.

4. Fences must comply with fence ordinances Chapter 19.76.050.(E.).

F. Outdoor pool enclosures.

1. Outdoor pool enclosures, permanent or inflated pool enclosures shall be constructed in accordance with the IBC. Enclosures shall be of a neutral color and designed to blend with the existing surroundings. The enclosure shall not exceed in height, the principal structure on the property nor shall the enclosure be taller than the existing accessory building height limitations in the applicable zone.

G. Above-ground pools.

1. In this code, above-ground pools and below grade pools shall be considered the same with regard to all requirements of this article.

H. Pool covers.

1. Pool covers, whether they can be locked or not, do not alone meet public safety requirements if the cover is of the type that can collect and hold natural water. The chief building official of the city shall have the authority to determine whether a pool cover can meet the safety requirements allowing a waiver of fencing requirements.

I. Shielding lights.

1. Lights used to illuminate any private swimming pool shall be so arranged and shaded as to reflect light away from adjoining premises.

J. Life-saving and emergency equipment.

1. All private swimming pools shall have:

(a) Life-saving equipment consisting of at least:

i. One (1) ring buoy not more than fifteen (15) inches in diameter to which is attached a rope three-sixteenths-inch in diameter and of a length at least equal to the greatest dimension of the swimming pool.

ii. One (1) life pole, or shepherd's crook type of pole, at least ten (10) feet long and having blunted ends, shall be provided.



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(b) Emergency flood lighting that is electrically connected to a different circuit than used by the pool.

2. The emergency equipment shall be used for emergency purposes only.

K. Polluted water.

1. No body of water, whether it be a natural or an artificial body of water in the city, which contains sewage, waste, or other contaminating or polluting ingredients rendering the water hazardous to health shall be used for swimming or bathing by any person or persons.

(b) Water shall not be allowed to remain in any unused or abandoned pool.

L. Chemical storage.

1. The storage of chemicals shall meet the requirements of the *Uniform Fire Code*.

M. Unnecessary noise.

1. It shall be unlawful for any person to make, continue or cause to be made or continue at any private swimming pool any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In the operation of a swimming pool, the use or permitting the use or operation of any radio, receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the person or persons who are in the swimming pool premises shall be unlawful.

O. Temporary buildings.

A. Temporary buildings for uses incidental to construction work shall be require to obtain a permit from the CBO.

B. Temporary buildings must be removed upon completion or abandonment of the construction work.

C. If such buildings are not removed within 90 days upon completion of construction and 30 days after notice, the buildings will be removed by the city at the expense of the owner

## **19.76.040 Land use**

### **A. Occupancy permit.**

A1. Land, buildings and premises in any zone shall hereafter be used only for the purpose listed in this title as permitted or conditional in that zone, and in accordance with the regulations established in this title in that zone.

B2. The permit of occupancy shall be issued by the director to the effect that the use and/or building or premises conforms to the provisions of this title and related ordinances prior to the occupancy of any building hereafter erected, enlarged or structurally altered, or where any vacant land is hereafter proposed to be occupied or used, except for permitted agricultural uses.

C3. Such a permit shall also be issued whenever the character or use of any building or land is proposed to be changed from one use to another use.

D4. Upon written request from the owner, such a permit shall also be issued covering any lawful use of a building or premises existing on the effective date of the amendment codified herein, including nonconforming buildings and uses.

### **B. Uses not listed—Compatibility standards.**

It is recognized that new types of land uses may develop and various forms of land uses not anticipated may seek to locate in the city. The provisions of this section shall provide a mechanism

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to classify land uses not listed in this title. Determination as to the classification of uses not specifically listed in this title shall be made as follows:

A. Written request. A written request for such a determination concerning an unlisted and ~~un~~notified proposed land use shall be filed with the director. The request shall include a detailed description of the proposed use and such other information as the director may require.

B. Investigation. The director thereupon shall make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and to make a determination of its classification, using the following compatibility standards:

1. Volume and type of sales, ~~retain~~retail, wholesale; size and type of items sold and nature of inventory on the premises;

2. Any processing done on the premises; assembly, manufacturing, smelting, warehousing shipping and distribution; and dangerous, hazardous, toxic or explosive materials used in processing;

3. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored. business vehicles, work in process, inventory and merchandise, construction materials, scrap and junk, and bulk materials, ores, powders and liquids;

4. Number and density of employees and customers, per unit area of site and buildings in relation to business hours and employment shifts;

5. Business hours the use is in operation or open for business, ranging from seven days a week, 24 hours a day to once to several times a year, such as sports stadiums or fairgrounds;

6. Transportation requirements, including modal split for people and freight, by volume, type and characteristics of traffic generation to and from the site, trip purposes, and whether trip purposes can be shared with other uses on the site;

7. Parking characteristics, turn over and generation, ration of the number of spaces required per unit area or activity, and potential for shared parking with other uses.

8. Predilection of attracting or repelling criminal activities to, from or other premises;

9. Amount and nature of nuisances generated on the premises noise, smoke, odor, glare, vibration radiation, and fumes; and

10. Any special public utility requirements for serving the use water supply, waste water output, pre-treatment of wastes and emissions recommended or required, and any significant power structures and communication towers or facilities.

C. Director's Recommendation. The director's recommendation concerning the proposed use shall be rendered in writing to the planning commission within 30 days unless an extension is granted by the planning commission. The director's recommendation shall state the zone classification in which the proposed use should be permitted as well as the findings which established that such use is of the same character and intensity of uses permitted in that zone classification.

D. Planning Commission Determination; Appeal. Upon receipt of the director's recommendation, the planning commission shall review such recommendation and either approve it as submitted, approve it with modifications, or reject it. The planning commission's decision may be appealed to the city council within 30 days after the date of such decision.

E. Effect of Determination. A use approved for a zoning district based on the foregoing compatibility standards shall thereafter become a permitted or conditional use (as designated by the planning commission) for that zoning district, and shall have the same status as a permitted or conditional use, as applicable, specifically named in the regulations for the zone classification in question.

### **C. Special events and temporary sales.**

A. The director may issue a temporary use permit for a temporary sale, special events, or other

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amusement enterprise of a similar nature, transient in nature, or Christmas tree sales, providing he shall find that the use will not conflict with the uses in the neighborhood and/or zoning of the subject property. To determine the compatibility of uses, the director may call a public hearing. Request for such permit shall be submitted in writing. Special event permits shall be limited to one per property at any one location for any one time.

B. In issuing a permit, the director may:

1. Stipulate the length of time the permit may remain valid;
2. Stipulate the hours of operation of the use; and
3. Stipulate other regulations which are necessary for the public welfare.

### **D. Home day care preschool, small.**

“Home day care/preschool, small” means the keeping for care and/or preschool instruction of six or less-fewer children including the caregiver’s own children under the age of six and under and not yet in full day school within an occupied dwelling and yard. A home day care/preschool, small is exempt from the home occupation requirements of this code, but must meet all of the following standards:

A. There may be a maximum of six children on premises at any time, including the caregiver’s own children under the age of six and not yet in full day school.

B. There shall be no employees that do not reside in the dwelling.

C. The home day care/preschool, small caregiver shall comply with all applicable licensing requirements under title 5 of this code.

D. The use shall comply with all applicable noise regulations.

E. The play yard shall not be located in the front yard and only shall be used between 8:00 a.m. and 7:00 p.m.

F. The lot shall contain one available on-site parking space not required for use of the dwelling. The location of the parking shall be approved by the director to insure that the parking is functional and does not change the residential character of the lot.

G. No signs shall be allowed on the dwelling or lot except a nameplate sign.

H. The use shall comply with all local, state and federal laws and regulations.

I. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by a home day care/preschool, or small caregiver, the city shall review the complaint and, if substantiated, may institute a license revocation proceeding under title 5 of this code.

J. All property owners within a 500 foot radius of the caregiver’s property shall be mailed notice concerning the licensing of a home day care/preschool, small, at such property; provided, however, that provision of such notice shall not be a condition precedent to the legality of any such license, and no such license shall be deemed invalid or illegal because of any failure to mail any such notice.

### **E. Home day care/preschool.**

“Home day care/preschool” means the keeping for care and/or preschool instruction of 12 or fewer children including the caregiver’s own children under the age of six age six or under and not yet in full day school within an occupied dwelling and yard. A home day care/preschool may be approved by the planning commission if it meets all of the following standards:

A. There may be a maximum of 12 children on premises at any time, including the caregiver’s own children under the age of six and not yet in full day school.

B. There shall be no more than one employee present at any one time who does not reside in the dwelling.

C. The home day care/preschool caregiver shall comply with all applicable licensing requirements under title 5 of this code.

D. The use shall comply with all applicable noise regulations.

E. The play yard shall not be located in the front yard and only shall be used between 8:00

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a.m. and 7:00 p.m.

F. The lot shall contain one available on-site parking space not required for use of the dwelling, and an additional available on-site parking space not required for use of the dwelling for any employee not residing in the dwelling. The location of the parking shall be approved by the director to insure that the parking is functional and does not change the residential character of the lot.

G. No signs shall be allowed on the dwelling or lot except a nameplate sign.

H. The use shall comply with all local, state and federal laws and regulations.

I. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by a home day care/preschool caregiver, the city shall review the complaint and, if substantiated, may (1) set a hearing before the planning commission to revoke any conditional use permit, and/or (2) institute a license revocation proceeding under title 5 of this code.

J. All property owners within a 500 foot radius of the caregiver's property shall be mailed notice of any hearing to grant or revoke any conditional use permit at least ten days prior to the date of the hearing; provided, however, that provision of such notice shall not be a condition precedent to the legality of any such hearing, and no hearing or action taken thereon shall be deemed invalid or illegal because of any failure to mail any such notice.

### **F. Home occupations**

A. "Home occupation" means, (unless otherwise provided) any use conducted entirely within a dwelling and carried on by one person residing in the dwelling unit and one additional person who may, or may not, reside in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or property for residential purposes, and in connection with which there is no display nor stock in trade, "stock in trade" being any item offered for sale which was not produced on the premises.

B. The home occupation shall not include the sale of commodities except those produced on the premises; provided, however, that original or reproductions of works of art designed or created by the artist operating a home occupation may be stored and sold on the premises. "Reproduction of works of art" includes, but is not limited to printed reproduction, casting, and sound recordings.

C. The home occupation shall not involve the use of any accessory building, ~~or~~ yard space or activity outside the main building if the use of accessory buildings or outside activity, for the purpose of carrying on a home occupation, violates the rule of the use being clearly incidental and secondary to the use of the dwelling or dwelling purposes.

D. The director shall determine whether additional parking, in addition to the two spaces required per dwelling unit, is required for a home occupation and shall also determine the number and location of such additional parking spaces.

~~G. Commercial renting of dwellings prohibited.~~

~~— It shall be deemed a commercial use and unlawful to rent or lease any dwelling or portion thereof located within any forestry, residential, agricultural rural residential or foothill agricultural zones for accommodation purposes or occupancy by different individuals for a period less than 30 consecutive days except as specifically permitted by this title.~~

### **HG. Residential facility for elderly persons.**

A. "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that is occupied 24 hours a day in a family-type arrangement by eight or fewer elderly persons 60 years old or older capable of living independently.

B. Such facility shall be owned by one of the residents or by an immediate family member of one of the residents or the title has been placed in trust for a resident.

C. Placement in such facility is on a voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

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- D. No person being treated for alcoholism or drug abuse may be placed in such a facility.
- E. The structure shall be capable of use without the residential character being changed by exterior structural or landscaping alterations.
- F. Each facility shall not be located within three-quarters of a mile of another residential facility for elderly persons or residential facility for handicapped persons.
- G. This use is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

### ~~I. Storage of RVs, boats and travel trailers.~~

~~—All RVs, boats and travel trailers which exceed eight feet in length shall only be stored in a side yard or rear yard, and shall also be subject to other regulations of this code.~~

### **JH. Car wash regulations**

A. Applicability and general purposes. Construction and operation of a car wash is subject to prior conditional use approval by the planning commission. The regulations in this section are intended to allow reasonable opportunities for car washes in the city, while (1) reducing noise and adverse visual impacts on abutting uses, particularly residential uses; (2) ensuring adequate drainage; (3) promoting safer and more efficient on-site vehicular circulation; (4) promoting an aesthetically pleasing environment for car washes; and (5) assuring that car washes are located so that they are not the dominant land use in the city's primary commercial or gateway corridors.

#### B. Location and site.

1. The lot proposed for a car wash shall be located in a zone that specifically allows a car wash as a conditional use or a permitted use.
2. The lot proposed for a car wash shall contain at least 10,000 square feet.
3. The lot proposed for a car wash shall front on, and have direct access to, an arterial or collector street (as designated by the city).
4. The ingress or egress points of a car wash, or any driveway thereon, shall not be located so to impede the safe operation of any intersection, as determined by the city.
5. No car wash shall be located on a corner lot.

#### C. Additional requirements.

##### 1. General.

(a) Any trash or service area of a car wash shall be fully screened from other properties and public streets.

(b) To the extent practicable, wash bays shall be sited parallel to the adjacent street in such a way as to use the frontage efficiently and be oriented away from any abutting residentially zoned or used property.

##### 2. Access, circulation and on-site parking.

(a) Access points and driveways shall be planned and shared between properties to the greatest extent possible.

(b) Sidewalks to accommodate pedestrian activity shall be provided. Pedestrian access shall be provided from the perimeter of the property to the car wash. Sidewalks in front of, or directly adjacent to, a car wash shall be at least four (4) feet wide.

(c) The circulation system shall provide continuous traffic flow with efficient, non-conflicting movement throughout the site. Conflicts between major pedestrian movement and vehicular circulation shall be minimized.

(d) The planning commission shall specify the distance between any two curb cuts used for entrances or exits to a car wash on a case-by-case basis, provided that such distance shall not be less than thirty-five (35) feet.

(e) If accessory vacuuming facilities are provided, a minimum of one parking space shall be provided for each vehicle capable of being serviced at any one time at such vacuum facility.

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Parking spaces for accessory vacuuming facilities shall not interfere with circulation or entrance or exit drives.

(f) In addition to parking requirements for employees and wash bays set forth in chapter 19.80, each wash bay of a car wash shall have the following vehicle stacking capacity for vehicles waiting to be serviced: (i) three (3) stacking spaces for each bay in a self-service car wash; and (ii) six (6) stacking spaces for each in-bay automatic or conveyor car wash.

### 3. Building and equipment setbacks.

(a) A car wash shall be set back a minimum of twenty-five (25) feet from the front property line.

(b) Accessory equipment, such as vacuum facilities, shall be set back a minimum of twenty (20) feet from any adjacent street.

(c) Car washes shall meet the side and rear setbacks required by the underlying zone.

### 4. Architectural design.

(a) A car wash shall maintain a consistent style and architectural theme. Architectural design, building materials, colors, forms, roof style and detailing should all work together to express a harmonious and consistent design.

(b) 360 degree architectural treatment is required. Building design must incorporate variations in building height, building mass, roof forms and changes in wall planes so as to avoid large expanses of flat, uninterrupted building walls.

(c) Building elements shall not function as signage. Incorporation of franchise or business design elements unique or symbolic of a particular business shall be secondary to the overall architectural design. Bold, brash, intense, fluorescent or metallic accent colors shall be used in limited application such as in signage.

(d) All car wash apparatus shall be enclosed or screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Screening may include: solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or a suitable combination of the above.

5. Site furniture. Site furniture (such as bicycle racks, trash receptacles, and benches) is required to be incorporated in the design of a car wash, as specified by the city through the conditional use process. The style of the site furniture must complement the overall design of the principal building and be of high quality.

6. All structures within the development shall be designed, constructed and permanently maintained in a planned, integrated, compatible and coordinated manner using the same or substantially identical:

(a) Exterior building materials and colors;

(b) Architectural features and style; and

(c) Lighting and lighting fixtures.

7. Lighting Requirements. In addition to general lighting requirements specified in chapters 19.76 and 19.80 of this code, the following specific lighting requirements shall apply to car washes:

(a) Lighting of car washes shall be adequate only to facilitate the activities taking place in such locations and shall not be used to attract attention to the business.

(b) Full cut-off lighting is required.

(c) Site lighting photometric plans are required.

(d) The following lighting is prohibited on car wash sites: (i) exposed strip lighting used to illuminate building facades or outline buildings; (ii) neon tubing; and (iii) blinking or flashing lights.

8. Landscaping requirements. All landscaping shall comply with the landscaping requirements of the underlying zoning and the conditional use approval for the car wash.



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D. Operational requirements. The following operational requirements apply to all car washes:

1. Water recycling.

(a) All car washes shall be required to be equipped with, and shall maintain in operation, a water recycling system that will recycle not less than fifty percent (50%) of the water being used by such car wash.

(b) Any applicant for a car wash shall submit site plan for review to the applicable water and wastewater provider(s) to insure appropriate and safe provision, use and discharge of water, and shall provide the city with evidence of its submittal to and response/approval by the applicable water and wastewater providers.

2. Hours of operation. Car washes shall not be open for business or otherwise in operation during the nighttime and early morning hours of 10:00 p.m. and 7:00 a.m. the following day.

### **K. Non-depository institutions**

Non-depository institutions are permitted as a conditional use within the Regional Commercial (CR) zone, subject to the following restrictions:

A. A non-depository institution shall not be located within one (1) mile of any other non-depository institution inside the city's geographical boundaries. The distance shall be measured from the exterior walls of the building (or portions thereof) in which the non-depository institution is located or proposed to be located, and shall be measured as a straight and direct line distance from said point.

B. In addition to the geographical restriction under subsection 19.76.370(A) above, the total number of non-depository institutions located within the city's geographical boundaries shall not exceed one (1) non-depository institution per ten thousand (10,000) residents of the city. A portion or fraction resulting from such a calculation that does not equal a whole number shall not increase, through "rounding" or otherwise, the total number of non-depository institutions possible under this section. For example, if the city's population was 39,999, then a maximum of three (3) non-depository institutions would be possible in the city, and a fourth (4<sup>th</sup>) non-depository institution would not be possible until the city's population was 40,000 or more. For purposes of such calculation, the city's population shall be determined by the figures provided by the United States Census Bureau's most recent annual estimate.

C. All non-depository institutions are subject to all applicable architectural, design, aesthetic and other regulations of all applicable zones, overlay zones, and other requirements of this title. In addition, all non-depository institutions are subject to the following supplemental regulations:

1. The color of the building housing the non-depository institution shall be restricted to earth tones or shall match the city-approved design theme of the development of which it is a part.

2. At least twenty-five percent (25%) of the first floor façade that faces a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level.

3. The use of bars, chains, or similar security devices that are visible from a public street or sidewalk is prohibited.

4. The use of neon lighting shall be prohibited on the building exterior.

5. All signage associated with any non-depository institution shall conform to the requirements of chapter 19.82 of this title.

### **L. Permitted use, approval standards.**

#### **19.76.050 Miscellaneous**



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## **A. Appeal of planning commission decision.**

1. Any person aggrieved by a decision of the planning commission regarding the issuance, denial or revocation or amendment of a conditional use permit may appeal such decision to the board of adjustment, whose decision shall then be final. All appeals to the board of adjustment must be in writing and filed with the department within 30 days after the date of the decision appealed from. The decision of the board of adjustment may be appealed to the District Court, provided that such appeal is filed with the District Court, with a copy to the director, within 30 days after the decision of the board of adjustment.

2. For more information regarding planning commission decisions, please see chapter 19.84 of this title.

~~—Any person shall have the right to appeal a decision of the planning commission. Appeals shall be made to the board of adjustment unless a right of appeal to the city council is specifically granted in this title.~~

## **B. Intersecting streets and clear visibility.**

In all zones, no obstruction to view in excess of three feet in height shall be placed on any corner lot within a triangular area formed by public or private street property lines and a line connecting them at points 30 feet from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers.

## **C. Off-site improvements.**

A. Off-site Improvements Required. The applicant for a building or conditional use permit for all dwellings, commercial or industrial uses, and all other business and public and quasi-public uses shall provide curb, gutter, ~~and sidewalk~~ and asphalt along the entire property line which abuts any public road or street in cases where it does not exist at city standards. Vehicular entrances to the property shall be provided as allowed in the this code. Height, location, structural specifications, maximum and minimum cut radii and minimum roadway approach angles to the centerline of the street are subject to the approval of the agency concerned.

### **B. Fee in Lieu of Improvements.**

1. Where conditions exist which make it unfeasible or impractical to install such curb, gutter and sidewalk, the planning commission may require the applicant to pay to the city a fee equal to the estimated cost of such improvements, as determined by the director. Upon payment of such fee by the developer, the city shall assume the responsibility for future installation of such improvements.

2. The fees shall be placed in a special account, and shall credit to such account a proportioned share of interest earned from investment of city monies. Records relating to identification of properties for which fees have been collected, fee amounts collected for such properties, and money transfer requests shall be the responsibility of the department.

### ~~C. Exceptions.~~

~~1. The planning commission may grant exception to installation of the sidewalk in industrial areas where the planning commission determines that the sidewalk is not necessary to serve the public need, and the elimination of the sidewalk does not jeopardize the public health, safety or welfare.~~

~~2. The planning commission may grant exception to installation of curb, gutter and sidewalk in rural or estate areas where topographic or other exceptional conditions exist, provided that the public health, safety and welfare are preserved.~~

## **D. Water and sewage facilities.**

In all cases where a proposed building or proposed use will involve the use of sewage facilities,

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and a sewer, as defined in the health department regulations, is not available within \_\_\_\_\_ feet of property where the building or use is proposed, and all cases where a proposed supply of piped water under pressure is not available within \_\_\_\_\_ feet of property where the building or use is proposed, the alternative sewage disposal and the domestic water supply shall comply with requirements of the health department, and the application for a building permit shall be accompanied by a certificate of approval from the health department.

### E. Fences.

D. No fence, wall or hedge shall be erected to a height which exceeds four feet in the front yard and six feet in the side yards and/or rear yard. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner:

1. of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence, and

2. that erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

E. Chain link fences. Except in private home applications, chain link fences, which are not vinyl coated, shall not be allowed.

### ~~E. Animal and fowl restrictions.~~

~~—No animals or fowl shall be kept or maintained closer than 40 feet from any dwelling on an adjacent parcel of land, and no barn, stable, coop, pen or corral shall be kept closer than 40 feet from any street.~~

### **F. Regulations regarding junk.**

A. "Junk" means any salvaged or scrap copper, brass, iron, steel, metal, rope, rags, batteries, paper, wood, trash, plastic, rubber, tires and waste, or other articles or materials commonly designated as junk. Junk, except as provided in subsections (B) or (C), shall also mean any dismantled, wrecked or inoperable motor vehicles or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of 60 days. An automobile, truck or bus shall be considered inoperable if it is not currently registered and licensed in this state or another state.

B. One truck with a capacity of one ton or less or automobile which is not currently licensed and registered in this state or another state but is otherwise operable may be stored on property for a period not to exceed one year if it is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; or

C. One truck with a capacity of one ton or less or automobile which is inoperable may be stored in a side yard, except a side yard which faces on a street or a rear yard on property for a period not to exceed one year provided:

1. The automobile or truck is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal;

2. The automobile or truck shall not be visible from any public street; and

3. The automobile or truck is entirely concealed by a covering which is maintained in good condition and which does not extend closer to the ground than the lowest point of the vehicle body.

D. All existing legal nonconforming motor vehicles as of the effective date of the ordinance codified in this section, or any amendment hereto, shall comply with the provisions of this section within one year from the date of the enactment of this section or any amendment thereto.

### ~~G. Fences.~~

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~~—No fence, wall or hedge shall be erected to a height which exceeds four feet in the front yard and six feet in the side yards and/or rear yard. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner (a) of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence, and (b) that erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.~~

### **~~19.76.320~~ — Short term rentals**

~~A. “Short term rental” means any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation, for a period of less than 30 consecutive days.~~

~~B. A short term rental shall not contain more than four bedrooms.~~

~~C. A short term rental shall be maintained to the following minimum standards:~~

~~1. Structures shall be properly maintained, painted and kept in good repair, and grounds and landscaped areas shall be properly maintained and watered in order that the use in no way detracts from the general appearance of the neighborhood; and~~

~~2. Required parking areas and access to parking areas shall be maintained and available for use at all times. Parking for this use shall be contained on the site, and shall not be allowed on the public rights of way; and~~

~~3. Snow shall be removed from sidewalks and driveways within one hour after the snow has ceased falling, provided that in case of a storm between the hours of 5:00 p.m. and 6:00 a.m., the sidewalk shall be cleaned before 8:00 a.m. the morning following the storm.~~

~~D. Occupants of a short term rental shall not create excessive noise that is incompatible with adjacent land users.~~

~~E. A short term rental use shall not have any signs on the premises that advertise the use.~~

~~F. The use of a dwelling as a short term rental shall not change the appearance of the dwelling or property for residential purposes.~~

~~G. Outdoor pools, hot tubs or spas shall not be used between the hours of 10:00 p.m. and 8:00 a.m.~~

~~H. The operator of a short term rental must be continuously licensed to operate such a business under title 5 of this code.~~

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